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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,839	10/08/2003	Paul G. McKinnon		7125
24987	7590	07/11/2005	EXAMINER	
MARCUS G THEODORE, PC 466 SOUTH 500 EAST SALT LAKE CITY, UT 84102			YEAGLEY, DANIEL S	
		ART UNIT	PAPER NUMBER	
		3611		

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/681,839	MCKINNON, PAUL G.
	Examiner Daniel Yeagley	Art Unit 3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 27 April 2005.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 3-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1 and 3-11 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on 27 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4-5) because the amended and original drawings of figure 1 through 6 have numerous errors and deficiencies that need correcting, a few examples are:

Figure 1; now has numerals that are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "26 and 12 and 28A" all have been used to designate the inner hollow post and as now read from the amended specification; it is further unclear which post is which?

Figure 1 also is objected to because the leader line from numeral 42 does not depict a distinctive element.

The figures are further objected to as failing to comply with 37 CFR 1.84(p)(5) because they lack some of the numerals cited in the specification, include numerals not cited in the specification and/or do not depict the correct element as referenced in the specification.

2. The drawings are further objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore:

the "ram with a sliding tubular extension slideably attached about the ram" as claimed in claim 4, must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing

sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

4. The disclosure is objected to because the specification as amended now further contains numerals which are not cited in the drawings and different numerals that reference the same element and therefore has further clouded the issues and has made the invention as claimed unclear. Appropriate corrections are required.

5. Claims 1 and 3 - 11 are objected to because the CLAIMS should commence on a separate sheet. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a ram (tube with open end 30) slideably attached about a (seat) tube (tube with open end 20) which may be moved and locked to provide a desired length extension of the of the ram with respect to the first tube to elevate the seat. However, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The disclosure failed to clearly disclose a ram with a sliding tubular extension being slideably attached about the *ram* that may be moved and locked to provide a desired length extension about the ram as claimed.

8. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, because the specification, as best understood; while being enabling for a ram having an extension slideably attached about a seat post that may be moved and locked to provide a desired length extension about the seat post to extend the ram within the seat post. However, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The disclosure failed to clearly disclose a sliding extension associated with the ram and seat such that the extension may be locked to the *ram* to extend the seat "as claimed.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1 and 3 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Regarding claim 1, line 10, the terms “*its*” and “*type*” are considered indefinite.

#### *Response to Arguments*

11. Applicant's arguments with respect to claims 1 and 3 - 11 have been considered but are moot in view of the new ground(s) of rejection as now claimed; as best understood. Applicant's amendment to the specification, drawings and the claims has obscured the invention and made the claims unclear and confusing.

#### *Allowable Subject Matter*

12. As best understood, Claims 1, 3-10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st and 112, 2nd paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.

  
**LESLEY D. MORRIS**  
PATENT EXAMINER  
ENTER 3600